

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

JOSEPH ROSEMOND, Plaintiff)	
)	
)	
v.)	C.A. No. 04-30072- KPN
)	
STOP AND SHOP SUPERMARKET COMPANY,)	
)	
Defendant.)	
)	

**DEFENDANT’S MOTION FOR SUMMARY JUDGMENT
AND REQUEST FOR HEARING**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Defendant The Stop & Shop Supermarket Company LLC (“Stop & Shop”), hereby respectfully moves for summary judgment on each of the counts asserted in Plaintiff Joseph Rosemond’s (“Rosemond” or “Plaintiff”) Second Amended Complaint because there are no genuine issues of material fact and Stop & Shop is entitled to judgment as a matter of law. As grounds for this Motion, Stop & Shop states as follows:

1. Plaintiff alleges race discrimination based on racial harassment in violation of Title VII and Chapter 151B. Plaintiff’s claims fail because he cannot establish a *prima facie* case of discrimination under Title VII or M.G.L. ch. 151B.
2. Moreover, Plaintiff is unable to establish that he was subjected to any harassment, let alone severe and pervasive harassment, that altered the terms and conditions of his employment.
3. Finally, Plaintiff’s claims fail because he cannot establish a basis for imputing liability to Stop & Shop. Once Stop & Shop learned of potentially harassing conduct, it

immediately investigated and although it concluded that there was no harassment, it took prompt and remedial action by (1) suspending two employees who engaged in a prank, (2) issuing each employee a final written warning; and (3) conducting sensitivity training for the two employees and all associates in the Chicopee store.

CONCLUSION

For these reasons, and the reasons set forth more fully in Defendant's Memorandum of Law in Support of its Motion for Summary Judgment, Defendant is entitled to judgment as a matter of law on Plaintiff's Complaint in its entirety.

REQUEST FOR HEARING

Defendant hereby requests a hearing on this Motion pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 7.1(E).

The Stop & Shop Supermarket Company LLC

By their attorneys,

/s/ Yvette Politis

Lisa J. Damon (BBO # 558843)

Yvette Politis (BBO # 644986)

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Dated: July 8, 2005

CERTIFICATE OF SERVICE

I, Yvette Politis, hereby certify that on July 8, 2005, I caused a true copy of the above to be delivered upon Plaintiff's attorney, Tani E. Sapirstein, Sapirstein & Sapirstein, P.C., 1341 Main Street, 3rd Floor, Springfield, MA 01103 by federal express.

Yvette Politis

Yvette Politis

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I, Yvette Politis, Esquire, hereby certify that I conferred with counsel for Plaintiff in good faith via telephone on July 8, 2005, in an attempt to resolve issues associated with the instant motion. Counsel were unable to resolve those issues.

Yvette Politis
Yvette Politis